

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOE DALE MARTINEZ, *et al*,

Plaintiffs,

VS.

REFINERY TERMINAL FIRE
COMPANY,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. C-11-295

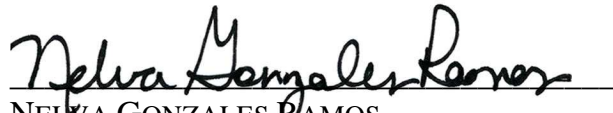
ORDER

Before the Court is Defendant's Motion to Dismiss (D.E. 119).

- The Court finds that Defendant's challenge to the status of Plaintiffs Joe Dale Martinez and Fidencio Lopez, Jr. has been withdrawn. D.E. 120. The motion is DENIED as to those Plaintiffs.
- The Court finds that all Notices of Consent filed on or before May 1, 2012 are timely. The Motion is DENIED with respect to any challenge to such Notices of Consent on the basis of timeliness.
- The Court finds that the Notices of Consent filed by Elridge Gums, III (D.E. 77) and Edward Ray Morgan (D.E. 73), which contain respective handwritten names and addresses after the form's indication of consent are sufficient without a separate signature. There is no evidence that these parties did not intend to consent as indicated by their filings. As such Notices were in writing and filed with the Court, they comply with the FLSA. The Motion is DENIED with respect to these two Plaintiffs.

- Plaintiff Mark Anthony Turner's status as a claimant is defeated by Defendant's affidavit that Mr. Turner was never an RTFC employee. Turner has failed to controvert that affidavit. Accordingly, the Motion is GRANTED as to the claims of Mark Anthony Turner (D.E. 62), which claims are hereby DISMISSED without prejudice.
- The Court takes under advisement the issue of whether the Notice of Consent filed by Jeremy Keith Williams (D.E. 112) by allegedly placing same in the mail prior to May 1, 2012 is timely. The Court further takes under advisement whether there is good cause to allow Grant William Funderburg to file his Notice of Consent (D.E. 116) untimely on May 14, 2012. The Court ORDERS Plaintiffs Jeremy Keith Williams and Grant William Funderburg to submit evidence in admissible form to support their excuses with respect to the timing of the filing of their respective Notices of Consent, if same can be done, on or before August 1, 2012.

ORDERED this 13th day of July, 2012.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE